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Applicant(s): ZECCHINO, ET AL.

Docket No.

2870/566(99.51US-CON)

Serial No.
09/995,358Filing Date
11/26/2001Examiner
Fubara, Blessing M.Group Art Unit
1615Invention: **EGLLED AQUEOUS COSMETIC COMPOSITIONS**

JUL 22 2002

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12870/566(99.51)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Zecchino et al.

Serial No.: 09/995,358

Group Art Unit: 1615

Filed: November 26, 2001

Examiner: B. Fubara

For: GELLED AQUEOUS COSMETIC COMPOSITIONS

AMENDMENT UNDER 37 CFR 1.115

Assistant Commissioner of Patents

Washington, D.C. 20231

Sir:

In response to the office action dated January 14, 2002, please enter the following amendment.

REMARKS

I. Rejection under 35 USC §102

Claims 1, 3; 5 and 8 have been rejected under 35 USC §102(b) as being anticipated by Wheeler et al. (WO 97/32559). The rejection states as follows, in pertinent part:

Wheeler teaches cosmetic or pharmaceutical composition comprising a stable dispersion that comprises oil-based bi-liquid foam and an aqueous gel. The oil-based bi-liquid foam of Wheeler et al. comprises from 1% to 80% by weight of the total formulation. The composition of Wheeler et al. also comprises silicone oils wherein the oils can be cyclomethicone, dimethicone, dimethicone copolyol, lanolin and dimethiconol. Wheeler et al. teaches a formulation further comprising from 0.05% to .5% of surfactant and active ingredient in the aqueous or oily phase. Wheeler et al. teaches that the low level of surfactant incorporated into the formulation comprises quaternary ammonium sulfonium salts, amphoteric surfactant, anionic surfactant, alpha-olefinic sulfonate, and ester-linked sulfonate. Salts of cross-linked polymers of acrylic acid (carbomers), glyceryl polymethacrylates, or copolymers of polyoxyethylene/polyoxypropylene in mixtures with the previously listed surfactants may serve as gelling agents. Wheeler's composition...comprises citric acid and the composition is adjusted to pH 6.5. Wheeler anticipates the claims[.]

Applicants respectfully disagree with the Examiner's interpretation of the Wheeler teaching as anticipating claims 1, 3, 5 and 8. First, it is noted that the present claim 1, from which all these rejected claims depend, is directed to cosmetic or pharmaceutical composition comprising an oil-containing bi-liquid foam dispersed in a salt-containing aqueous phase, in which the aqueous phase, having a pH of

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